

Senate Bill 87

By: Senators Stone of the 23rd, Hufstetler of the 52nd, Jeffares of the 17th, Anderson of the 24th, Tillery of the 19th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 44-13-100 of the Official Code of Georgia Annotated, relating to
2 exemptions for purposes of bankruptcy and intestate insolvent estates, so as to add assets in
3 health savings accounts and medical savings accounts to the list of property that is exempt
4 from bankruptcy to provide for the cancellation of judgment liens against certain property
5 in bankruptcy; to provide for procedure; to provide for related matters; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 44-13-100 of the Official Code of Georgia Annotated, relating to exemptions
10 for purposes of bankruptcy and intestate insolvent estates, is amended in paragraph (2) of
11 subsection (a) by deleting "and" at the end of subparagraph (E), by replacing the period with
12 "; and" at the end of subparagraph (F), and by adding a new subparagraph and a new
13 subsection to read as follows:

14 "(G) Moneys paid into or out of, the assets of, and the income of a health savings
15 account or medical savings account authorized under Chapter 51 of Title 33 or Sections
16 220 and 223 of the Internal Revenue Code of 1986."

17 (d)(1) At any time after closing of a case filed pursuant to an act of Congress relating
18 to bankruptcy, the debtor, his or her receiver or trustee, or any interested party may file
19 with a clerk of court where a judgment lien is recorded an affidavit of lien release and
20 shall attach thereto a certified copy of the discharge of such bankrupt or debtor and a
21 lien avoidance order, or a certified copy of the order of confirmation of a plan and the
22 plan as confirmed, together with a copy of the portions of the schedules filed by the
23 debtor in the bankruptcy case listing the judgment creditor and identifying property as
24 exempt. In addition, the filer shall certify that no order has been entered in the
25 bankruptcy limiting the discharge as to the judgment or retaining the judgment lien.

26 (2) Upon filing such affidavit, the lien of such judgment shall be deemed cancelled as
27 to:
28 (A) Any property which was:
29 (i) Identified as exempt and for which a lien avoidance order was issued; or
30 (ii) Re-vested in the debtor without lien retention under a plan; and
31 (B) Any other property acquired by the debtor after the filing of the bankruptcy
32 petition.
33 (3) The clerk of court shall file such affidavit in the deed records and index the recording
34 information as to the affidavit of lien release on the judgment lien in the appropriate lien
35 record."

36 **SECTION 2.**

37 All laws and parts of laws in conflict with this Act are repealed.